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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/613,857	07/02/2003	Leo Chiu	P8108	4334
24739	7590	06/20/2006	EXAMINER GAUTHIER, GERALD	
CENTRAL COAST PATENT AGENCY PO BOX 187 AROMAS, CA 95004			ART UNIT 2614	PAPER NUMBER

DATE MAILED: 06/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	10/613,857		CHIU, LEO	
	<b>Examiner</b>		<b>Art Unit</b>	
	Gerald Gauthier		2614	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 10 April 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-29 and 34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-29 and 34 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>4/10/06</u> .   | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. **Claim(s) 1-29, and 34** are rejected under 35 U.S.C. 103(a) as being unpatentable over Bogard (US 6,757,365 B1) in view of Bohacek et al. (US 6,411,687 B1).

Regarding **claim(s) 1**, Bogard discloses a voice application system (FIG. 3 and column 1, lines 7-10) comprising:

a voice application server (310 on FIG. 3) for serving voice applications to clients over a data network (column 5, lines 14-26);

at least one voice portal node (307 on FIG. 3) having access to the data network, the portal node for facilitation of client interaction with the voice applications (column 5, lines 14-26); and

a behavioral adaptation engine executable from the application server (column 3, line 63 to column 4, line 4).

Bogard fails to disclose analyzing the responses for both conduct patterns and mood states.

However, Bohacek teaches characterized in that the behavioral adaptation engine monitors client responses during voice interaction, analyzes the responses for both conduct patterns and mood states, including caller stress, and determines which of a set of optional dialog responses is to be played to the client as a result of the analysis of the client's response (column 3, line 60 to column 4, line 29).

Therefore, it would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify the invention of Bogard using the teaching of analyzing mood as taught by Bohacek.

This modification of the invention enables the system to analyzing the responses for both conduct patterns and mood states so that the system would route the call accordingly.

Regarding **claim(s) 2**, Bogard discloses a system, wherein the data network is the Internet network (column 5, lines 14-26).

Regarding **claim(s) 3**, Bogard discloses a system, wherein the data network is a combination of the Internet and telephony network (column 5, lines 14-26).

Regarding **claim(s) 4**, Bogard discloses a system, wherein the behavioral adaptation engine is part of the application logic of the voice application server (column 3, line 63 to column 4, line 4).

Regarding **claim(s) 5**, Bogard discloses a system, wherein the at least one voice portal is an interactive voice response system combined with a telephony server (column 3, lines 49-60).

Regarding **claim(s) 6**, Bogard discloses a system, wherein the at least one voice portal is a computerized node connected to a data network having access to the Internet (column 5, lines 14-26).

Regarding **claim(s) 7**, Bogard discloses a system, wherein the behavioral adaptation engine analyzes audio files recorded at the at least one voice portal and sent to the application server as digital audio files attached to client responses (column 3, line 63 to column 4, line 4).

Regarding **claim(s) 8**, Bogard discloses a system, wherein the behavioral adaptation engine executes upon receipt of a trigger event (column 3, line 63 to column 4, line 4).

Regarding **claim(s) 9**, Bohacek teaches a system, wherein the constraints are related to one or a combination of menu navigation behavior or perceived mood state of the client (column 4, lines 24-29).

Therefore, it would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify the invention of Bogard using the teaching of analyzing mood as taught by Bohacek.

This modification of the invention enables the system to analyzing the responses for both conduct patterns and mood states so that the system would route the call accordingly.

Regarding **claim(s) 10**, Bogard discloses a system, wherein the dialog responses and linked options are stored in a data store and are accessible to the behavioral adaptation engine (column 3, line 63 to column 4, line 4).

Regarding **claim(s) 11**, Bogard discloses a system, wherein the received client-information includes one or a combination of line identification, number identification, client history data, voice imprint results, and recorded voice samples (column 3, lines 22-33).

Regarding **claim(s) 12**, Bohacek teaches a system, wherein voice sampling is used to discern mood (column 4, lines 24-29).

Therefore, it would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify the invention of Bogard using the teaching of analyzing mood as taught by Bohacek.

This modification of the invention enables the system to analyzing the responses for both conduct patterns and mood states so that the system would route the call accordingly.

Regarding **claim(s) 13**, Bogard discloses a system, wherein received client information is used in conjunction with voice analysis to determine a response (column 4, lines 5-13).

Regarding **claim(s) 14**, Bohacek teaches a system, wherein the behavioral adaptation engine detects voice inflection variances and volume characteristics of sampled audio to facilitate mood discernment of a client (column 4, lines 24-29).

Therefore, it would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify the invention of Bogard using the teaching of analyzing mood as taught by Bohacek.

This modification of the invention enables the system to analyzing the responses for both conduct patterns and mood states so that the system would route the call accordingly.

Regarding **claim(s) 15**, Bogard discloses a system, wherein the variances and volume characteristics of an interaction are collected over multiple interactions with a same application to develop statistics used in gauging enterprise response probability values (column 4, lines 5-13).

Regarding **claim(s) 16**, Bogard in combination with Bohacek disclose all the limitations of **claim(s) 16** as stated in **claim(s) 1**'s rejection above and furthermore Bogard discloses at least one data input port for receiving XML-based client interaction data including audio files attached to the data (column 6, line 64 to column 7, line 3);

at least one bi-directional data port for sending data to and receiving data from external data systems and modules (column 6, lines 45-63);

a logic processing component including an XML reader and voice player and analyzer for processing received data (column 6, lines 45-63); and

a decision logic component for processing result data against one or more constraints (column 6, lines 45-63).

Regarding **claim(s) 17**, Bogard discloses an engine, wherein the engine is hosted in a voice application server (column 5, lines 14-26).

Regarding **claim(s) 18**, Bogard discloses an engine, wherein the server is hosted on the Internet network (column 5, lines 14-26).



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Regarding **claim(s) 19**, Bogard discloses an engine, wherein the voice application and deployment system includes at least one voice portal for facilitation of client access to voice applications (column 5, lines 14-26).

Regarding **claim(s) 20**, Bogard discloses an engine, wherein the engine is executed to function upon receipt of a trigger event (column 3, line 63 to column 4, line 4).

Regarding **claim(s) 21**, Bohacek teaches an engine, wherein the constraints are related to one or a combination of menu navigation behavior or perceived mood state of the client (column 4, lines 24-29).

Therefore, it would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify the invention of Bogard using the teaching of analyzing mood as taught by Bohacek.

This modification of the invention enables the system to analyzing the responses for both conduct patterns and mood states so that the system would route the call accordingly.

Regarding **claim(s) 22**, Bogard discloses an engine, wherein data from external data resources is used as additional input data for decision processing (column 6, lines 45-63).

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Regarding **claim(s) 23**, Bogard discloses an engine, wherein the received client data includes one or a combination of line identification, number identification, client history data, and voice imprint results (column 3, lines 23-32).

Regarding **claim(s) 24**, Bohacek teaches an engine, wherein voice sampling is used to discern mood state (column 4, lines 24-29).

Therefore, it would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify the invention of Bogard using the teaching of analyzing mood as taught by Bohacek.

This modification of the invention enables the system to analyzing the responses for both conduct patterns and mood states so that the system would route the call accordingly.

Regarding **claim(s) 25**, Bohacek teaches an engine, wherein the voice analyzer detects voice inflection variances and volume characteristics of sampled audio to facilitate mood discernment of a client (column 4, lines 24-29).

Therefore, it would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify the invention of Bogard using the teaching of analyzing mood as taught by Bohacek.

This modification of the invention enables the system to analyzing the responses for both conduct patterns and mood states so that the system would route the call accordingly.

Regarding **claim(s) 26**, Bogard discloses an engine, wherein the variances and volume characteristics of an interaction are collected over multiple interactions with a same application to develop statistics used in gauging enterprise response probability values (column 3, line 63 to column 4, line 4).

Regarding **claim(s) 27**, Bogard in combination with Bohacek disclose all the limitations of claim(s) 27 as stated in claim(s) 1's rejection and furthermore Bogard discloses receiving the data input during run of the voice application (column 7, lines 15-35).

Regarding **claim(s) 28**, Bogard discloses a method, wherein the voice application is VXML compliant (column 6, lines 45-63).

Regarding **claim(s) 29**, Bogard discloses a method, wherein in step (a) the data input includes client identification data, client dialog data, and digital audio sampled from the dialog (column 3, lines 23-32).

Regarding **claim(s) 34**, Bogard discloses a method, wherein in step (d) the external data includes statistical data resulting from of past interactions with the same dialog of the same application (column 3, line 63 to column 4, line 4).

***Response to Arguments***

4. Applicant's arguments with respect to **claim(s) 1-29 and 34** have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gerald Gauthier whose telephone number is (571) 272-7539. The examiner can normally be reached on 8:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang can be reached on (571) 272-7547. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
**GERALD GAUTHIER**  
**PATENT EXAMINER**

GG

June 14, 2006

Gerald Gauthier  
Examiner  
Art Unit 2614